

# Wisconsin Administrative Register

No. 625



Publication Date: January 14, 2008

Effective Date: January 15, 2008



Legislative Reference Bureau  
<http://www.legis.state.wi.us/rsb/code.htm>

# Dedication

This issue of the Wisconsin Administrative Register is dedicated to Gary L. Poulson who retired from state service on December 31, 2007 after nearly 35 years with the Revisor of Statutes Bureau. The publication of this issue of the Register marks the first edition that has not been edited by Gary since early in his career with the state that began in 1973. His encyclopedic knowledge of matters related to the Administrative Code and Register were an asset to the state that will be difficult to replace. Those who worked with him over the years will certainly miss him both for his willingness and ability to help and for simply having been Gary for all those years.

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## Emergency Rules Now in Effect

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

*Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at [www.legis.state.wi.us/rsb/code](http://www.legis.state.wi.us/rsb/code).*

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### Agriculture, Trade and Consumer Protection

Rules adopted revising **ch. ATCP 10**, relating to diseases of fish and farm-raised deer.

#### Finding of Emergency

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers Wisconsin’s animal health and disease control programs, including programs to control diseases of fish and farm-raised deer.

#### Disease Testing of Fish

(2) DATCP regulates fish farms, including fish farms operated by the Wisconsin Department of Natural Resources (“DNR”). DATCP also regulates the import, movement and disease testing of fish.

(3) Viral hemorrhagic septicemia (VHS) is a serious disease of fish. VHS was first reported in Wisconsin on May 11, 2007, after the Wisconsin Veterinary Diagnostic Laboratory confirmed positive samples from freshwater drum (sheepshead) in Little Lake Butte des Mortes (part of the Lake Winnebago system). VHS was subsequently found in Lake Winnebago, and in Lake Michigan near Green Bay and Algoma. The source of VHS in these wild water bodies is not known. VHS has not yet been reported in any Wisconsin fish farms. VHS can be fatal to fish, but is not known to affect human beings.

(4) Current DATCP rules require health certificates for fish and fish eggs (including bait) imported into this state, for fish and fish eggs stocked into waters of the state, and for fish and fish eggs (including bait species) moved between fish farms in this state. *Import* health certificates must include VHS

testing if the import shipment includes salmonids (salmon, trout, etc.) or originates from a state or province where VHS is known to occur. VHS testing is *not* currently required for fish or fish eggs stocked into waters of the state from Wisconsin sources, for bait fish or eggs originating from Wisconsin sources, for fish or fish eggs moved between fish farms in Wisconsin, or for non-salmonids imported from states where VHS has not yet been found.

(5) Because VHS has now been found in waters of the state, it is necessary to expand current VHS testing requirements. Because of the urgent need to minimize the spread of VHS in this state, it is necessary to adopt VHS testing requirements by emergency rule, pending the adoption of a “permanent” rule.

#### Disease-Free Herd Certification of Farm-Raised Deer Herds

(6) DATCP registers farm-raised deer herds in this state. DATCP also regulates the import, movement and disease testing of farm-raised deer. Under current DATCP rules, DATCP may certify a deer herd as brucellosis-free or tuberculosis-free, or both, based on herd test results provided by the deer keeper. Certification is voluntary, but facilitates sale and movement of deer.

(7) Under current rules, a tuberculosis-free herd certification is good for 3 years, but a brucellosis-free herd certification is good for only 2 years. There is no compelling veterinary medical reason for the difference. A rule change (extending the brucellosis-free certification term from 2 to 3 years) is needed to harmonize the certification terms, so that deer farmers can conduct simultaneous tests for both diseases. Simultaneous testing will reduce testing costs and limit stress on tested deer. An emergency rule is needed to avoid some unnecessary costs for deer farmers this year, pending the adoption of permanent rules.

<b>Publication Date:</b>	<b>October 31, 2007</b>
<b>Effective Date:</b>	<b>October 31, 2007</b>
<b>Expiration Date:</b>	<b>March 29, 2008</b>
<b>Hearing Dates:</b>	<b>January 14, 2008</b>
	<b>[See Notice this Register]</b>

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### Commerce

#### (Licenses, Certifications, etc., Ch. Comm 5)

Rules adopted revising **ch. Comm 5**, relating to licensing of elevator contractors and installers.

#### Exemption From Finding of Emergency

Under the nonstatutory provisions of 2005 Wis. Act 456, the Department of Commerce was directed to issue emergency rules that implement provisions of the Act. The Act specifically states: “Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.”

The Act mandates the licensing of elevator contractors and installers. Under the Act no person may engage in the business of installing or servicing conveyances or working on

a conveyance unless licensed as of June 1, 2007. These emergency rules are being adopted in order to provide the elevator industry the ability to comply with licensing aspects of the Act and continue working until permanent rules are implemented.

**Publication Date:** June 1, 2007  
**Effective Date:** June 1, 2007  
**Expiration Date:** See section 7 (2), 2005 Wis. Act 456  
**Hearing Date:** June 27, 2007

## Commerce (2) (Amusement Rides, Ch. Comm 34)

1. Rule adopted creating s. Comm 34.22 (5m), relating to amusement ride safety.

### Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. An amusement ride fatality occurred in Wisconsin on July 14, 2007. The ride involved the field attachment of passengers who don harnesses and then are elevated off the ground.

2. Although no mechanical or equipment failure contributed to the incident, attachment and connection practices of the operators did not incorporate safety practices used on some similar rides in the industry.

3. The department recognizes that without promulgating this emergency rule, there could be confusion in what constitutes a recognized safe practice for the field attachment or connection of harnessed passengers on similar amusement rides. The department believes clarifying the code will promote safety.

Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and the Revisor of Statutes.

**Publication Date:** August 13, 2007  
**Effective Date:** August 13, 2007  
**Expiration Date:** January 10, 2008  
**Hearing Date:** October 15, 2007

2. Rules adopted revising ch. Comm 34, relating to amusement rides and affecting small businesses.

### Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. An amusement ride fatality occurred in Wisconsin on July 14, 2007.

2. The department is in the processing of promulgating rule revisions under its Amusement Ride Code, chapter Comm 34 to address two issues that have come to light as a result of the accident investigation. The completion of this rule-making

process and their enactment cannot occur prior to the beginning of the 2008 amusement ride season. The issuance of the emergency rules at this time is also necessary to allow amusement ride owners and operators sufficient time to acquire the necessary issuance.

3. The department believes that establishing liability insurance obligations for amusement ride owners and operators will promote safety.

**Publication Date:** November 12, 2007  
**Effective Date:** January 1, 2008  
**Expiration Date:** May 30, 2008  
**Hearing Date:** December 12, 2007

## Commerce (Financial Resources for Businesses and Communities, Chs. Comm 104–131)

Rules adopted creating ch. Comm 135, relating to tax credits and exemptions for internet equipment used in the broadband market.

### Exemption From Finding of Emergency

These rules establish the criteria for administering a program that will (1) certify businesses as temporarily eligible for tax credits and exemptions for Internet equipment used in the broadband market, and (2) allocate up to \$7,500,000 to these businesses for these tax credits and exemptions.

Pursuant to section 227.24 of the statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper. In accordance with section 17 (1) (d) of 2005 Wisconsin Act 479, this rule will remain in effect until January 1, 2008, or until the Department reports its certifications and determinations under this rule to the Department of Revenue, whichever is sooner.

The rules specify who is eligible for the income and franchise tax credits and the sales and use tax exemptions in this program, for Internet equipment used in the broadband market. Eligible equipment is also specified, along with how to apply for the certifications and allocations. Parameters for allocating the authorized total of \$7,500,000 are likewise specified. These parameters emphasize (1) efficiently initiating broadband Internet service in areas of Wisconsin that otherwise are not expected to soon receive this service, and (2) encouraging economic or community development. The rule chapter also describes the time-specific legislative oversight that is established in 2005 Act 479 for these allocations, and describes the follow-up reports that the Act requires from every person who receives a sales or use tax exemption under this chapter.

**Publication Date:** February 20, 2007  
**Effective Date:** February 20, 2007  
**Expiration Date:** See section 17 (1) (d) 2005 Wis. Act 479  
**Hearing Date:** March 26, 2007

## Elections Board

Rules adopted creating s. EIBd 3.50, relating to pricing of voter information available from the Statewide Voter Registration System.

### Exemption From Finding of Emergency

The Elections Board finds that under Section 180 of the non-statutory provisions of 2005 Wisconsin Act 451, in

subsection (4), the Elections Board may promulgate emergency rules under s. 227.24, Stats., implementing s. 6.36 (6), Stats., as created by Wisconsin Act 451. Notwithstanding s. 227.24 (1) (c) and (2), Stats., emergency rules promulgated under subsection (4) remain in effect until the date on which permanent rules take effect. Notwithstanding s. 227.24 (1) (a) and (3), Stats., the Elections Board is not required to provide evidence that promulgating a rule under subsection (4) as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under subsection (4).

This amended rule interprets ss. 5.02 (14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats. The rule requires that persons who request copies of information from the Statewide Voter registration System must pay, for each such copy, a charge calculated under the provisions of the rule.

At the present time, the Elections Board is limited, in the fee that it can charge for information provided by the Statewide Voter registration System, to the fee set by s. 19.35 (3), Stats.: “the actual, necessary, and direct cost of reproduction and transcription of the record.” In order to recover both the cost of reproduction and the cost of maintaining the list at the state and local level, rather than having its charge be limited to the amount currently provided under the public records law, the Board needs an immediate rule reflecting both cost components required by the new statute.

**Publication Date:** May 12, 2007  
**Effective Date:** May 12, 2007  
**Expiration Date:** See section 180 (4), 2005 Wis. Act 451  
**Hearing Date:** June 11, 2007

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## Employment Relations Commission

Rule adopted amending s. ERC 10.08 (1), (2), (3), (4), and (5), relating to increased filing fees.

### Finding of Emergency

The Employment Relations Commission finds that an emergency exists and that the attached rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

1. The Employment Relations Commission has a statutory responsibility in the private, municipal and state sectors for timely and peaceful resolution of collective bargaining disputes and for serving as an expeditious and impartial labor relations tribunal.

2. 2003 Wisconsin Act 33 eliminated \$400,000 in General Program Revenue (GPR) and 4.0 GPR supported positions from the Commission’s 2003–2005 budget and increased the number of Program Revenue (PR) filing fee supported positions by 2.0, from 3.0 to 5.0. The same legislation also abolished the Personnel Commission and transferred certain of that agency’s former responsibilities to the Employment Relations Commission, without additional staff or funding.

3. The 2005–07 budget maintained the same reduced GPR funding and position levels and the additional PR positions as authorized in 2003 Wisconsin Act 33. The Governor’s proposed budget for 2007–09 maintains the same number of GPR and PR funded positions as the previous two budgets.

4. In order to support the 5.0 PR positions provided in the state budgets since 2003, the Employment Relations Commission doubled its filing fees in August, 2003. Despite that increase, filing fee income has averaged \$381,359 over the past four fiscal years, an amount that was approximately \$130,350 less each year than the average budget–authorized PR position expenditures for those same years. As a result the Commission’s PR fund balance has been reduced to a level that is wholly insufficient to meet current PR expenditures.

5. Unless the emergency rule making procedures of s. 227.24, Stats., are utilized by the Employment Relations Commission to provide the increased filing fee revenue needed to support the 5.0 positions provided in the PR portion of the Commission’s budget, the Commission’s ability to provide timely and expeditious dispute resolution services will be significantly harmed.

**Publication Date:** December 19, 2007  
**Effective Date:** January 2, 2008  
**Expiration Date:** May 31, 2008  
**Hearing Date:** November 12, 2007

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## Health and Family Services (Medical Assistance, Chs. HFS 100—)

Rules adopted revising s. HFS 115.04, to include the condition known as Severe Combined Immunodeficiency (SCID) and related conditions of immunodeficiency to the list of disorders and disorder types found under s. HFS 115.04.

### Finding of Emergency

The early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Therefore, s. 253.13, Wis. Stats., requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department; however, parents may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Currently, s. HFS 115.04 lists 13 congenital and metabolic disorders and types of disorders, for a total of 47 different disorders, for which the state hygiene laboratory must test newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons with expertise and experience concerning congenital and metabolic disorders. For this purpose, the Department has established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists 6 criteria on which the Department must base its decision to add or delete disorders from s. HFS 115.04. These criteria are as follows:

1. Characteristics of the specific disorder, including disease incidence, morbidity, and mortality.
2. The availability of effective therapy and potential for successful treatment.
3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.
4. The availability of mechanisms for determining the effectiveness of test procedures.
5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and

accurately and the existence of adequate follow-up and management programs.

6. The expected benefits to children and society in relation to the risks and costs associated with the testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Advisory Umbrella Advisory Group has recently recommended the Department add the condition known as Severe Combined Immunodeficiency (SCID) and related conditions of immunodeficiency to the 13 disorders and types of disorders currently screened for and listed in s. HFS 115.04. Persons with SCID are extremely vulnerable to infections, to the degree that the condition is universally fatal without treatment within the first year of life. With an estimated prevalence of 1 in 66,000, and a Wisconsin annual birth rate around 71,000, the failure to screen for SCID could result in the death of 1–2 infants in the state every year.

The Advisory Group also recommended the Department begin screening newborns for SCID and related conditions of immunodeficiency as soon as possible. Before the screening can begin, the Department needs to add these conditions to the list in s. HFS 115.04. Therefore, it is proposed to put an emergency rule in effect first, to be followed by an identical proposed permanent rule to replace the emergency rule.

The Department will immediately promulgate identical permanent rules to replace these emergency rules.

**Publication Date:** December 27, 2007  
**Effective Date:** January 1, 2008  
**Expiration Date:** May 30, 2008

### **Natural Resources (3)** **(Fish and Game, etc., Chs. NR 1—)**

1. Rules adopted amending s. NR 20.20, relating to the hook and line harvest of lake sturgeon.

#### **Finding of Emergency**

The Department of Natural Resources finds that an emergency exists and rules are necessary to prevent excessive harvest of lake sturgeon from the inland waters of Wisconsin during the 2007 hook and line season.

**Publication Date:** July 23, 2007  
**Effective Date:** July 23, 2007  
**Expiration Date:** December 20, 2007  
**Hearing Date:** August 13, 2007

2. Rules adopted amending ss. NR 10.01 (1) (v), 10.12 (5) (d) and 10.15 (6); and to repeal and recreate s. NR 10.01 (1) (b), (g) and (u), relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

#### **Finding of Emergency**

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal

regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**Publication Date:** August 30, 2007  
**Effective Date:** August 30, 2007  
**Expiration Date:** January 27, 2008  
**Hearing Date:** October 19, 2007

3. Rules adopted affecting chs. NR 19 and 20, relating to control of fish diseases and invasive species.

#### **Finding of Emergency**

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

The World Health Organization for Animal Health (OIE) lists Viral Hemorrhagic Septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. On May 11, the Department received notice that freshwater drum collected from Little Lake Butte des Morts (part of the Lake Winnebago system) were infected with the VHS virus. On May 23, May 24, and June 1, respectively, the Department learned that brown trout from Lake Michigan, smallmouth bass from Sturgeon Bay, and lake whitefish from Lake Michigan had tested positive for the virus.

Earlier, VHS had been discovered in the Great Lakes, and was known to be moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage basin. Information obtained pursuant to an emergency rule that took effect May 17 revealed that 88 bait dealers harvest live wild minnows from a large number of state waters, including waters that are near or connected to the Mississippi river, the Lake Winnebago system, Green Bay and Lakes Michigan and Superior.

Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. It is expected the USDA APHIS will soon expand its emergency order limiting the interstate transportation of these species to apply to all fish species. The VHS virus can be transported from infected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in Wisconsin is therefore a threat to the public health or safety or to the environment.

**Publication Date:** November 2, 2007  
**Effective Date:** November 2, 2007  
**Expiration Date:** March 31, 2008  
**Hearing Date:** December 3, 2007

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**Natural Resources (2)**  
**(Environmental Protection – Water Regulation, Chs. NR 300–)**

1. Rules adopted revising **ch. NR 345**, relating to general permits for dredging in Great Lakes navigable waterways.

**Finding of Emergency**

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken under a general permit. There are no statutory general permits for dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove algae, mussels, dead fish and similar large plant and animal nuisance deposits. Without emergency rules to create general permits, all dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits require an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2007 summer season, with specific standards for operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits.

**Publication Date:** June 10, 2007  
**Effective Date:** June 10, 2007  
**Expiration Date:** November 7, 2007  
**Hearing Date:** July 10, 2007  
**Extension Through:** January 5, 2008

2. Rules adopted revising **chs. NR 320, 323, 328, 329, 341, 343 and 345**, relating to general permit criteria requiring decontamination of equipment for invasive species and viruses.

**Finding of Emergency**

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken under a general permit. There are no statutory general permit standards that require decontamination of equipment for invasive species and viruses. Without emergency rules to create new general permit standards, any condition imposed would be limited to individual permits only with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go

ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits standards to be in effect for the 2007 summer season, with specific standards that require decontamination of equipment for invasive species and viruses.

In addition, The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a “notifiable” disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

**Publication Date:** July 12, 2007  
**Effective Date:** July 12, 2007  
**Expiration Date:** December 9, 2007  
**Hearing Date:** August 13, 2007  
**Extension Through:** February 6, 2008

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**Natural Resources**  
**(Environmental Protection – Air Pollution Control, Chs. NR 400–)**

Rules adopted creating **s. NR 462.015**, relating to national emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters and potentially affecting small business.

**Finding of Emergency**

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Preservation of the public welfare necessitates putting the rule into effect prior to the time that it would take if the department complied with the normal procedures. Federal regulations that are the basis for ch. 462, Wis. Adm. Code, were vacated on July 30, 2007 by the U.S. Court of Appeals. Both the vacated federal regulations and ch. NR 462 contain a date for compliance of September 13, 2007. This order is designed to bring state rules into conformity with the court-ordered vacatur of the federal regulations. Normal rule-making procedures will not allow implementation of ch. NR 462 to be stayed before September 13, 2007.

**Publication Date:** September 13, 2007  
**Effective Date:** September 13, 2007  
**Expiration Date:** February 10, 2008  
**Hearing Date:** October 26, 2007

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## Public Instruction

A rule is adopted creating **ch. PI 33**, relating to grants for nursing services.

### Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

The school nursing grant program under s. 115.28 (47), Stats., was created under 2007 Wisconsin Act 20. The Act became effective October 27, 2007, and appropriated \$250,000 annually beginning in the 2007–08 school year. In order for school districts to develop applications and for the department to review the applications and grant awards in time for the program to operate in the second semester of the school year, rules must be in place as soon as possible to establish application criteria and procedures.

**Publication Date:** November 24, 2007  
**Effective Date:** November 24, 2007  
**Expiration Date:** April 23, 2008

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## Revenue (2)

1. Rules adopted amending **s. Tax 2.505**, relating to the computation of the apportionment fraction by multistate professional sports clubs.

### Finding of Emergency

The Department of Revenue finds that an emergency exists and that the rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to prescribe the method to be used for apportioning the apportionable income of interstate professional sports clubs.

It is necessary to promulgate this rule order to provide the method of apportionment to be used by interstate professional sports clubs.

**Publication Date:** October 12, 2007  
**Effective Date:** October 12, 2007  
**Expiration Date:** March 10, 2008

2. A rule was adopted revising **s. Tax 8.63**, interpreting s. 125.54 (7), Stats., relating to liquor wholesale warehouse facilities.

### Finding of Emergency

The Department of Revenue finds that an emergency exists and that a rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to change the amount of floor space that a liquor wholesaler warehouse facility described in a wholesalers' permit is required to be from 4,000 to 1,000 square feet of floor space. It also creates a provision that allows the minimum square footage requirement to be waived when it is determined that a waiver is fair and equitable.

It is necessary to promulgate this rule order to remove the threat of revenue loss to bona fide liquor wholesalers as a result of having applications for issuance or renewal of permits denied solely because they do not meet the square footage requirement in the existing rule.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Secretary of State and Revisor of Statutes, as provided in s. 227.24, Stats.

**Publication Date:** October 29, 2007  
**Effective Date:** October 29, 2007  
**Expiration Date:** March 27, 2008  
**Hearing Date:** January 2, 2008

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## Transportation

Rule adopted creating **ch. Trans 178**, relating to the Unified Carrier Registration System.

### Analysis

This chapter establishes in the Wisconsin Administrative Code the fees to be charged under the Unified Carrier Registration (UCR) system, and establishes a method for counting the number of vehicles so that an entity knows whether it is required to register under UCR and, if so, which fee bracket applies to the entity.

### Exemption From Finding of Emergency

The Legislature, by Section 2927, as created by 2007 Wis. Act 20, provides an exemption from a finding of emergency for the adoption of the rule.

**Publication Date:** December 19, 2007  
**Effective Date:** December 19, 2007  
**Expiration Date:** May 18, 2008  
**Hearing Date:** March 5, 2008

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## Workforce Development (Family Supports, Chs. DWD 12 to 59)

Rule adopted amending **s. DWD 56.06 (1) (a) 1. and creating s. DWD 56.06 (1) (a) 1. r.**, relating to child care rates.

### Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

2007 Wisconsin Act 20 reflects that child care rates will not be increased for the 2008–2009 biennium. Chapter DWD 56 currently provides that child care rates shall be set annually in accordance with a market rate survey and procedures described in s. DWD 56.06 (1). Historically, the rate adjustments have been effective January 1 of the new year. This emergency rule is necessary to provide that child care rates will not be adjusted for 2008 in accordance with 2007 Wisconsin Act 20. A corresponding permanent rule will provide that child care rates will not be adjusted for 2008 and 2009.

**Publication Date:** December 27, 2007  
**Effective Date:** January 1, 2008  
**Expiration Date:** May 30, 2008

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**Workforce Development  
(Public Works Construction Contracts,  
Chs. DWD 290 to 294)**

Rule adopted amending ss. **DWD 290.155 (1) and 293.02 (1) and (2)**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements and affecting small businesses.

**Finding of Emergency**

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The adjustment of the thresholds for the application of the payment and performance assurance requirements avoids imposing an additional administrative burden on contractors for the same reason. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the rule-making process.

**Publication Date:** December 27, 2007  
**Effective Date:** January 1, 2008  
**Expiration Date:** May 30, 2008

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## Scope Statements

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### Financial Institutions — Wisconsin Consumer Act

#### Subject

The rule will create s. DFI-WCA 1.84, relating to unconscionable conduct.

#### Policy Analysis

The purpose of the rule is to set forth certain conduct in consumer credit transactions and the collection of debts arising from consumer credit transactions that shall be considered unconscionable and prohibited.

#### Statutory Authority

Sections 425.107 (2), 426.104 (1) (e), 426.108 and 227.11 (2), Stats.

#### Entities Affected by the Rule

Entities subject to the Wisconsin Consumer Act that are engaged in consumer credit transactions and the collection of debts arising from consumer credit transactions.

#### Comparison with Federal Regulations

The department is aware of no such regulation.

#### Estimate of Time Needed to Develop the Rule

150 hours.

### Health and Family Services

#### Subject

The rule amends s. HFS 107.10 (3) (e), relating to allowing recipients of Medicaid services to obtain certain medications in a supply sufficient to last 100 days. At present recipients may only obtain up to a 34 day supply of these drugs.

#### Policy Analysis

The provisions of the proposed rulemaking order are intended to have a cost-saving effect. The Governor's veto message of 2005 Wisconsin Act 25, the biennial budget act, directed the Department to find savings in the area of pharmacy expenditures for Medicaid recipients. The proposed amendment will allow pharmacies to dispense prescription drugs in larger quantities, making it possible to reduce the number of transactions needed to fulfill a particular recipient's needs for prescription drugs. The cost savings result from the fact that drugs provided in a 100-day supply will result in only one dispensing fee being paid, as opposed to 3 dispensing fees if the same drugs were provided in a 34-day supply.

The pharmacy benefit is just one of numerous benefits offered under the Wisconsin Medicaid program, which is administered by the Division of Health Care Access and Accountability in the Department of Health and Family Services. However, prescribed drugs are one of the costliest benefits provided by the Medicaid program.

In September 2005, the Secretary of the Department of Administration indicated that the Governor would appoint members to a Pharmacy Reimbursement Commission to develop recommendations to achieve biennial savings in Medicaid expenditures on pharmacy services. The Governor

instructed the Commission to find savings while compensating pharmacies fairly and protecting benefits to Wisconsin's most vulnerable residents. The 100-day supply was identified as a way to save \$3.3 million.

#### Statutory Authority

Sections 49.45 (10) and 227.11 (2), Stats.

#### Entities Affected by the Rule

Pharmacies will be affected by the proposed rule.

#### Comparison with Federal Regulations

Section 447.331 (b) of Title 42 of the Code of Federal Regulations specifies upper limits for multiple source drugs. This revision will assist the state in complying with the requirements of that provision, by enabling the state to reimburse recipients for purchasing prescription drugs in greater amounts.

#### Estimate of Time Needed to Develop the Rule

40 hours.

### Pharmacy Examining Board

#### Subject

The rule affects ch. Phar 13, relating to the regulation of prescription drug distributors.

#### Objective of the Rule

To implement the statute changes set forth in the drug distributor portions of 2007 Wisconsin Act 20.

#### Policy Analysis

The Board will decide during the rulemaking process what information to require of a manufacturer in maintaining and updating at least one time per month a list of manufacturers' authorized distributors of record; whether inspections conducted by another state, the National Association of Boards of Pharmacy, or the Wisconsin Pharmacy Examining Board satisfy requirements the Board sets as necessary for effective wholesale distributor facility inspections; and how and when to implement an electronic track and trace 'pedigree' system. Other changes authorized by law may be considered during the rulemaking process.

#### Statutory Authority

Sections 15.08 (5) (b), 227.11 (2), 450.07 (4) (c), 450.071 (3) (b) and (4), and 450.073 (3), Stats.

#### Entities Affected by the Rule

Drug manufacturers, drug distributors, drug inspectors and the Wisconsin Department of Regulation and Licensing.

#### Comparison with Federal Regulations

21 CFR § 203 included federal regulations relating to drug distributorships and drug pedigrees. Only portions of the enacted regulations could be applied after a preliminary injunction that stayed certain provisions was ordered on December 5, 2006 in *RXUSA Wholesalers, Inc. v. HHS*.

#### Estimate of Time Needed to Develop the Rule

It is estimated that 100 hours of staff time will be needed to promulgate the rule.

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# Submittal of Rules to Legislative Council Clearinghouse

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*Please check the Bulletin of Proceedings – Administrative Rules  
for further information on a particular rule.*

## **Agriculture, Trade and Consumer Protection CR 07–116**

On December 21, 2007, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The rule affects chs. ATCP 42, 55, and 57, relating to inedible animal by-products and processing of meat and poultry.

### **Agency Procedure for Promulgation**

Public hearings will be scheduled at a later time. The Department's Division of Food Safety is primarily responsible for this rule.

### **Contact Person**

Jim Larson  
Division of Food Safety  
(608) 224-4729

## **Commerce CR 07–117**

On December 27, 2007, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The rule affects ch. Comm 4, relating to grants for construction career academies.

### **Agency Procedure for Promulgation**

A public hearing is scheduled for January 30, 2008. The Safety and Buildings Division is primarily responsible for this rule.

### **Contact Person**

James Quast, Program Manager  
Safety and Buildings Division  
(608) 266-9292  
jim.quast@wisconsin.gov

## **Health and Family Services CR 07–115**

On December 19, 2007, the Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

## **Analysis**

The rule affects ch. HFS 149, relating to the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) vendors and participants, and affecting small businesses.

### **Agency Procedure for Promulgation**

A public hearing is required and will be scheduled at a later time.

### **Contact Person**

For substantive questions on rules contact:

Patti Herrick  
WIC Program Director  
Room 243, 1 West Wilson Street  
Madison, WI 53701  
Phone: (608) 266-3821  
Fax: (608) 266-3125  
herriph@dhfs.state.wi.us

For small business considerations and rules processing information contact:

Rosie Greer  
(608) 266-1279  
greertj@dhfs.state.wi.us

## **Transportation CR 07–114**

On December 19, 2007, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The rule affects ch. Trans 131, relating to the vehicle emission inspection program.

### **Agency Procedure for Promulgation**

A public hearing is scheduled for February 4, 2008. The Division of Motor Vehicles, Bureau of Vehicle Services is primarily responsible for this rule.

### **Contact Person**

Steve Hirshfeld  
Bureau of Vehicle Services  
P.O. Box 7909  
Madison, WI 53707-7909  
(608) 266-2267  
stephen.hirshfeld@dot.state.wi.us

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## Rule-Making Notices

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### Notice of Hearings

#### Agriculture, Trade and Consumer Protection

#### CR 07-116

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule that clarifies current DATCP rules related to rendering plants, animal food processors, grease processors, dead animal collectors and carcass dealers, without making substantial changes. The rule also incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants.

With respect to meat and poultry for human food, the proposed rule incorporates recent federal regulation changes into state meat inspection rules, including prohibiting the slaughter of “downer” animals for human consumption (already being enforced), requiring producers of “ready-to-eat” meat products to have written procedures for minimizing food safety risks related to *Listeria monocytogenes* (already being implemented), and restricting the amount of water from post-evisceration processing that may be retained in raw meat and poultry. The proposed rule also clarifies current rules related to meat brokers and meat distributors.

#### Submission of Written Comments

DATCP will hold two public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until Monday, March 10, 2008, for additional written comments. Comments may be sent to the Division of Food Safety, Bureau of Meat Safety and Inspection at the address below, by email to [Jim.Larson@wisconsin.gov](mailto:Jim.Larson@wisconsin.gov) or online at: <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

To provide comments or concerns relating to small business, please contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, or by emailing to [Keeley.Moll@wisconsin.gov](mailto:Keeley.Moll@wisconsin.gov), or by calling (608) 224-5039.

#### Hearing Information

##### Wednesday, February 20, 2008

3:00 p.m. to 5:00 p.m.

Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive, Board Room (CR-106)

Madison, Wisconsin, 53708

##### Friday, February 22, 2008

3:00 p.m. to 5:00 p.m.

Marathon County Public Library

300 North First Street

Wausau, WI 54403

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by Wednesday, February 13, 2008, by writing to

Carol Cockroft, Division of Food Safety, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4663. Alternatively, you may contact the DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

#### Copy of Rule

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4726 or emailing [Carol.Winner@wisconsin.gov](mailto:Carol.Winner@wisconsin.gov). Copies will also be available at the hearings. To view the proposed rule online, go to: <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

#### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

##### Overview

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) administers Wisconsin food safety laws. Among other things, DATCP licenses and inspects meat establishments that produce meat for human consumption. DATCP also regulates rendering plants, animal food processors and other entities that process and handle *inedible* animal carcasses. This rule does all of the following:

- Repeals and recreates current DATCP rules related to rendering plants, animal food processors, grease processors, dead animal collectors and carcass dealers. These entities process and handle inedible animal carcasses and carcass materials, and produce products for *non-food* use. Regulation keeps inedible materials out of the human food chain and helps ensure safe animal feed. For the most part, this rule clarifies current rules without making major substantive changes.
- Incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The prohibition is designed to prevent the incidence of BSE (“mad cow disease”). DATCP is already enforcing this federal prohibition.
- Amends current state meat inspection rules to incorporate recent changes in federal regulations (state rules must be at least “equal to” federal regulations). Consistent with federal regulations, this rule does all of the following:
  - Prohibits, without exception, the slaughter of “downer” animals for human consumption (DATCP is already enforcing this federal prohibition).
  - Requires producers of “ready-to-eat” meat products to have written procedures for minimizing food safety risks related to *Listeria monocytogenes* (DATCP has already implemented this federal requirement).
  - Restricts the amount of water from post-evisceration processing that may be retained in raw meat and poultry.
- Clarifies current rules related to meat brokers and meat distributors.

##### Statutes interpreted

Sections 93.07(10), 94.72, 95.71, 95.72, 97.02, 97.10, 97.42, 97.43, 97.44, Stats.

**Statutory authority**

Sections 93.07 (1), 93.07 (10), 94.72 (13) (a), 95.71 (8), 95.72 (5), 97.42 (4)

**Explanation of agency authority**

DATCP has broad authority to regulate the production and sale of food and animal feed, and broad authority to regulate activities that may threaten animal health or spread disease. DATCP licenses and regulates rendering plants, animal food processors, grease processors, dead animal collectors and related businesses under s. 95.72, Stats. DATCP licenses and regulates commercial feed manufacturers under s. 94.72, Stats. DATCP licenses and regulates meat establishments under s. 97.42, Stats. DATCP may adopt rules to implement statutes under its jurisdiction.

***Inedible Animal By-Products***

Wisconsin has a large rendering and animal food processing industry. This industry collects and processes inedible animal carcasses, inedible carcass materials and inedible meat by-products from Wisconsin's large livestock and meat processing industries, and produces useful *non-food* products such as grease, tallow, blood meal, bone meal and animal feed.

DATCP currently regulates rendering plants, animal food processors, grease processors and dead animal collectors under s. 95.72, Stats., and ch. ATCP 57, Wis. Adm. Code. Regulation protects human and animal health, and is closely related to the regulation of food and animal feed.

With the advent of BSE ("mad cow disease"), there has been increased focus on the rendering and animal food processing industries. DATCP currently enforces federal BSE regulations under contract with the United States Food and Drug Administration (FDA). FDA is considering possible regulatory changes, but has not adopted any changes to date (this rule incorporates *current* federal prohibitions and labeling requirements).

In cooperation with the United States Department of Agriculture (USDA), Wisconsin has tested over 100,000 cattle for BSE without any positive disease findings. Wisconsin has tested far more cattle than any other state. Indeed, Wisconsin has tested about 20% of all the cattle tested to date in the *entire nation*.

***Renderers*****General**

This rule clarifies current licensing and regulation of rendering operations under s. 95.72, Stats. Under this rule, "rendering" means melting or reconstituting carcasses or carcass materials, with the use of heat, to produce rendered products for non-food use. "Rendering" does not include licensed meat processing, licensed food processing, licensed grease processing, hide processing, or the manufacture of glue, pharmaceuticals or gelatin.

**Renderer License**

Under this rule, no person may do any of the following without an annual renderer license from DATCP:

- Operate a rendering plant in this state (a renderer may operate 2 or more rendering plants under a single license).
- Collect, receive or transport, in this state, carcasses or carcass materials for rendering by that person in this state or another state.
- Slaughter animals in this state for rendering by that person in this state or another state.

An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to produce, sell or distribute food for human consumption. An applicant must submit an annual license application that identifies rendering plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each rendering plant (this rule does not change the current fee).

Before DATCP issues a license covering a new rendering plant, DATCP must inspect the rendering plant (DATCP may also inspect new transfer stations used to transfer carcasses from one vehicle to another). There is an inspection fee of \$25 for each new rendering plant (this rule does not increase the current fee). There is no inspection fee for new transfer stations.

If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date). DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

**Rendering Plants: Location, Facilities and Operations**

Current statutes prohibit the construction of a rendering plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Rendering plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning. Fully rendered products must be stored in a location and manner that protects them from contamination by live animals, un-rendered carcasses and un-rendered carcass materials.

A rendering plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices). Nuisance conditions include things like accumulated carcasses or manure, drainage from carcasses, accumulated litter, unclean facilities or rodent infestations.

A renderer must collect and safely dispose of all solid and liquid waste from rendering operations. A renderer must collect manure, offal, processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with department of natural resources (DNR) rules. A renderer must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

A renderer must transport and handle carcasses and carcass materials according to this rule (see below). If a renderer slaughters animals for rendering, the renderer must use humane methods, and must slaughter the animals in an area that is designed and equipped for safe and humane slaughtering. Live animals may not be unloaded, kept or slaughtered in processing or storage areas.

**Renderer Records**

Under this rule, a renderer must keep records of rendering operations. Records must include all of the following:

- The name and address of each person from whom the renderer receives carcasses or carcass materials, the date and location of each receipt, the types of carcasses or carcass materials received, the number or weight of carcasses received, the weight or liquid volume of carcass

materials received, and the disposition of any carcasses or carcass materials received but not rendered.

- The name and address of each person from whom the renderer receives live animals, the date and location of each receipt, the numbers and types of live animals received, and the disposition of each animal. If the renderer slaughters an animal, the renderer must record the date and location of slaughter, and the disposition of the carcass.
- The types of rendered product, and the daily amounts of each type of rendered product, produced at each rendering plant.
- The name and address of each person to whom the renderer sells or distributes rendered product, the dates on which the renderer ships rendered product to each person, and the type and amount of rendered product included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and rendered products, so that it is possible to identify ingredient sources for each lot of rendered product (and vice versa).

A renderer must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

#### *Animal Food Processors*

##### General.

This rule clarifies current licensing and regulation of animal food processors under s. 95.72, Stats. Under this rule, “animal food processing” means slaughtering animals or processing carcasses or carcass materials for use as animal feed. “Animal food processing” does not include any of the following:

- The collection or transportation of whole animal carcasses by a dead animal collector licensed under this rule (see below), provided that the dead animal collector does not process the carcasses or remove hide or feathers.
- A fur farm operator’s processing of carcasses or carcass materials solely for feeding to fur bearing animals produced on that fur farm (fur farmers must register with DATCP under s. 97.44(2), Stats.).
- Licensed rendering operations (see above).
- Licensed grease processing operations (see below).
- Licensed meat processing operations (see ch. ATCP 55).
- Licensed food processing operations (see chs. ATCP 70 and 75, and s. 254.64, Stats.).
- Licensed commercial feed manufacturer operations that extend beyond “minimal processing” of animal carcasses (see ch. ATCP 42 and s. 94.72(5), Stats.).
- The processing of hides, or the manufacture of glue, pharmaceuticals or gelatin.

This rule clarifies that a licensed animal food processor is not required to hold a commercial feed manufacturer license (ATCP 42) if the animal food processor does only “minimal processing” of carcasses or carcass materials fed to animals. “Minimal processing” includes removal of hides or feathers, cutting, grinding, denaturing, freezing and packaging. “Minimal processing” does not include heat treating, rendering, or mixing with other ingredients such as vitamins or minerals.

##### Animal Food Processor License

Under this rule, no person may do any of the following without an animal food processor license from DATCP:

- Operate an animal food processing plant in this state.
- Collect, receive or transport, in this state, carcasses or carcass materials for animal food processing by that person in this state or another state.
- Slaughter animals in this state for animal food processing by that person in this state or another state.

An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to produce, sell or distribute food for human consumption. An applicant must submit an annual license application that identifies animal food processing plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each animal food processing plant (this rule does not change the current fee).

Before DATCP licenses a new animal food processing plant, DATCP must inspect the plant (DATCP may also inspect new transfer stations where carcasses are transferred from one transport vehicle to another). There is an inspection fee of \$25 for each new animal food processing plant (this rule does not change the current fee). There is no inspection fee for new transfer stations.

If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date). DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

##### Animal Food Processing Plants: Location, Facilities and Operations

Current statutes prohibit the construction of an animal food processing plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Animal food processing plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule.

Facilities must be designed for easy cleaning. Processed products must be stored in a location and manner that protects them from contamination by live animals, unprocessed carcasses and unprocessed carcass materials.

An animal food processing plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices). Nuisance conditions include things like accumulated carcasses or manure, drainage from carcasses, accumulated litter, unclean facilities or rodent infestations.

An animal food processor must collect and safely dispose of all solid and liquid waste from processing operations. An animal food processor must collect manure, offal, processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. An animal food processor must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

An animal food processor must transport and handle carcasses and carcass materials according to this rule (see

below). If an animal food processor slaughters animals for processing, the animal food processor must use humane methods, and must slaughter the animals in an area that is designed and equipped for safe and humane slaughtering. Live animals may not be unloaded, kept or slaughtered in processing or storage areas.

#### Animal Food Processor Records

Under this rule, an animal food processor must keep records of animal food processing operations. Records must include all of the following:

- The name and address of each person from whom the animal food processor receives carcasses or carcass materials, the date and location of each receipt, the types of carcasses or carcass materials received, the number or weight of carcasses received, the weight or liquid volume of carcass materials received, and the disposition of any carcasses or carcass materials received but not processed.
- The name and address of each person from whom the animal food processor receives live animals, the date and location of each receipt, the numbers and types of live animals received, and the disposition of each animal. If the animal food processor slaughters an animal, the animal food processor must record the date and location of slaughter, and the disposition of the carcass.
- The types of animal feed, and the daily amounts of each type of feed, produced at each animal food processing plant.
- The name and address of each person to whom the animal food processor sells or distributes animal feed, the dates on which the animal food processor ships the animal feed to each person, and the type and amount of animal feed included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and processed products, so that it is possible to identify ingredient sources for each lot of processed product (and vice versa).

An animal food processor must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

#### **Grease Processors**

##### General

This rule clarifies current licensing and regulation of grease processors under s. 95.72, Stats. Under this rule, “grease processing” means combining, melting, refining, reconstituting or recycling fully rendered products to produce grease or other products for non-food use. “Grease processing” does not include any of the following:

- Licensed rendering operations (see above).
- Licensed animal food processing operations (see above).
- Licensed meat processing operations (see current ch. ATCP 55).
- Licensed food processing operations (see current chs. ATCP 70 and 75, and s. 254.64, Stats.).

##### Grease Processor License

Under this rule, no person may operate as a grease processor without an annual license from DATCP. An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to do any of the following:

- Produce, sell or distribute food for human consumption.
- Receive, collect, transport or slaughter live animals.

- Receive, collect, transport or process carcasses or carcass materials.

An applicant must submit an annual license application that identifies grease processing plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each grease processing plant (this rule does not change the current fee).

Before DATCP licenses a new grease processing plant, DATCP must inspect the plant. There is an inspection fee of \$25 for each new grease processing plant (this rule does not change the current fee). If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date).

DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

##### Grease Processing Plants: Location, Facilities and Operations

Current statutes prohibit the construction of a rendering plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Grease processing plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning.

Processed grease must be stored in a location and manner that protects it from contamination from unprocessed ingredients. A grease processing plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices).

A grease processor must collect and safely dispose of all solid and liquid waste from grease processing operations. A grease processor must collect processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. A grease processor must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

##### Grease Processor Records

Under this rule, a grease processor must keep records related to the receipt and processing of grease ingredients and the sale or distribution of processed grease. Records must identify all of the following:

- The name and address of each person from whom the grease processor receives ingredients for processing, the date and location of each receipt, the types of ingredients received, the weight or liquid volume of ingredients received, and the disposition of any ingredients not processed into grease.
- The types and daily amounts of grease produced at each grease processing plant.
- The name and address of each person to whom the grease processor sells or distributes grease, the dates on which the grease processor ships grease to each person, and the type and amount of grease included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and processed grease, so that it is possible to identify ingredient sources for each lot of processed grease (and vice versa).

A grease processor must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

### ***Dead Animal Collectors***

#### **General.**

This rule clarifies current licensing and regulation of dead animal collectors under s. 95.72, Stats. Under this rule, a “dead animal collector” means a person who collects and transports whole carcasses, with hide or feathers intact, for delivery to a renderer, animal food processor or fur farm operator. “Dead animal collector” does not include any of the following:

- A person who is solely engaged in collecting or transporting hides or feathers.
- A licensed renderer (see above).
- A licensed animal food processor (see above).
- A fur farm operator who collects and transports carcasses solely for feeding to fur bearing animals on that person’s fur farm (fur farmers must register with DATCP under s. 97.44(2), Stats.).

#### **Dead Animal Collector License**

Under this rule, no person may operate as a dead animal collector without an annual license from DATCP. This license requirement does not apply to a licensed renderer or animal food processor (see above) who collects or transports carcasses or carcass materials solely for processing by that renderer or animal food processor. A dead animal collector license does not authorize a license holder to do any of the following:

- Process carcasses or carcass materials.
- Collect or transport anything other than whole carcasses with hide or feathers intact.
- Collect, transport or deliver carcasses for processing or use as human food.
- Collect, transport or deliver carcasses for processing or use as animal feed, other than for processing by a licensed renderer or animal food processor.

An annual license expires on February 28 of each year and is not transferable. An annual license application must identify each transfer station operated by the dead animal collector, and must include other information required under this rule. The application must include an annual fee of \$100 for the applicant’s principal business location and for each of transfer station (this rule does not change the current fee). DATCP must grant or deny a license application within 30 days after DATCP receives a complete application.

#### **Dead Animal Collector: Facilities and Operations**

Facilities operated by a dead animal collector must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning, and must be kept free of nuisance conditions.

A dead animal collector must collect and safely dispose of all solid and liquid waste related to that person’s operations. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. A dead animal collector must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

A dead animal collector must transport and handle carcasses and carcass materials according to this rule (see

below). If a dead animal collector slaughters an animal before collecting its carcass, the dead animal collector must use humane methods.

#### **Dead Animal Collector Records**

Under this rule, a dead animal collector must keep all of the following records:

- The name and address of each person from whom the dead animal collector receives carcasses, the date and location of each receipt, the types of carcasses received, and the number of carcasses of each type received.
- The name and address of each person to whom the dead animal collector delivers carcasses, the date and location of each delivery, the types of carcasses delivered, and the number of carcasses of each type delivered.

A dead animal collector must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

#### ***Carcass Dealers***

Under current DATCP rules, a person engaged in the business of buying, selling or distributing inedible animal carcasses or carcass materials must register annually with DATCP (unless that person is licensed as a rendering plant operator, animal food processor or dead animal collector). A registrant must keep records related to carcass transactions. This rule clarifies, but does not substantially alter, current rules. Under this rule, registrants are called “carcass dealers.” There is no fee to register as a carcass dealer.

#### ***Transporting Carcasses and Carcass Materials***

##### **Licensing**

Under this rule, no person may transport carcasses or carcass materials on a public road unless the person is licensed as a renderer, animal food processor or dead animal collector. This license requirement does not apply to any of the following:

- The transportation of meat according to ATCP 55.
- A farmer transporting carcasses of animals raised on his or her farm.
- Transportation solely for purposes of destruction, burial or landfill disposal.
- Transportation by a government agency.
- Transportation by a bona fide research institution, for purposes of scientific research.
- An animal trucker licensed under ch. ATCP 12 who transports, for direct delivery to a licensed renderer, animal food processor or dead animal collector, the carcass of an animal that died while being transported by the animal trucker.
- The transportation of hides, feathers, or fully rendered products.
- A fur farm operator’s transportation of carcasses or carcass materials solely to feed fur-bearing animals on the operator’s fur farm.
- The transportation of legally harvested wild animals by or on behalf of the person who harvested them.
- An employee of a license holder, acting within the scope of his or her employment.

##### **Vehicle Permit**

A person who transports carcasses and carcass materials under this rule must hold a DATCP permit for each vehicle that the person uses to transport carcasses or carcass materials on a public road. A permit expires on February 28 of each year. There is no fee.

To obtain a vehicle permit, a person must apply on a form provided by DATCP. An application must identify the applicant and vehicle and must show that the applicant is licensed (or applying for a license) as a renderer, animal food processor or dead animal collector. DATCP must grant or deny an application within 30 days after DATCP receives a complete application.

#### Vehicle Marking

Each transport vehicle must bear the following information on both sides of the vehicle:

- The correct legal name of the vehicle permit holder, prominently printed in block lettering at least 3 inches high.
- The principal business address of the permit holder, prominently printed below the permit holder's name in block lettering at least 2 inches high.

#### Sanitary Transport

A person who transports carcasses or carcass materials under this rule must do all of the following:

- Transport carcasses or carcass materials in leakproof vehicles or containers that are closed or fully covered by a tarpaulin or other watertight covering.
- Clean and sanitize, after each day's use and more often if necessary, vehicles and containers used to transport carcasses and carcass materials.

#### Prohibited Practices

No person covered by this rule may do any of the following:

- Transport live animals without an appropriate license under ch. ATCP 12 (Livestock Markets, Dealers and Truckers).
- Transport live animals in the same vehicle with carcasses or carcass materials.
- Park a vehicle containing carcasses or carcass materials in any place where the parked vehicle may create a nuisance condition.

#### Removing Carcasses from Transfer Stations

A person who operates a transfer station must remove carcasses and carcass materials from that transfer station within 24 hours after they are received, and sooner if necessary to prevent nuisance conditions. Carcasses and carcass materials received on a Saturday, or on a Sunday followed by a legal holiday, must be removed within 48 hours and sooner if necessary to prevent nuisance conditions.

#### Denaturing Carcasses and Carcass Materials

Under this rule, no renderer or animal food processor may transport, freeze, or receive for processing any carcasses or carcass materials other than the following:

- Complete carcasses with hide or feathers intact.
- Carcasses or carcass materials that are denatured according to this rule.
- Fully rendered products.
- Carcasses or carcass materials that are naturally incapable of being consumed by humans.
- Lungs and lung lobes originating from a licensed meat establishment.

To denature carcasses or carcass materials, a person must apply an approved denaturing agent according to this rule, so that the denatured carcass or carcass material has a distinctive color, texture, odor or taste and cannot be confused with human food. This rule identifies approved denaturing agents (the department may approve additional denaturing agents).

#### Labeling Processed Products

Under this rule, no person may sell or distribute any rendered product, animal feed or grease unless that product is clearly and conspicuously labeled with all of the following:

- The name and address of the renderer, animal food processor or grease processor.
- A clear identification of the product.
- The net quantity of product included in any package or bulk shipment.
- The clear and conspicuous statement **"INEDIBLE (SPECIES) NOT INTENDED FOR HUMAN FOOD"** if the product is capable of being consumed by humans.
- The clear and conspicuous statement **"DO NOT FEED TO CATTLE OR OTHER RUMINANTS"** if required by current FDA rules under 21 CFR 589.2000.

#### Prohibitions

Under this rule, no person may do any of the following:

- Process, sell or distribute any carcass or carcass material as feed for food animals unless the material has been fully rendered.
- Do any of the following contrary to current FDA rules under 21 CFR 589.200 (some exemptions apply under current FDA rules):
  - Feed protein derived from animal tissues to cattle or other ruminant animals.
  - Manufacture, label, sell or distribute, as feed for ruminant animals, any protein derived from mammalian tissues.
- Produce, sell or distribute food for human consumption pursuant to a renderer license, animal food processor license or grease processor license.
- Process food in the same facilities used for a rendering plant, animal food processing plant or grease processing plant.

#### Meat and Poultry for Human Consumption

DATCP administers Wisconsin's meat inspection program (includes poultry). DATCP licenses and inspects approximately 360 meat slaughter and processing establishments, and regulates the sale and distribution of meat. Wisconsin's program must be at least "equal to" the federal program administered by USDA. This rule modifies current DATCP meat inspection rules to incorporate recent federal regulatory changes.

#### Downer Animals

This rule prohibits, without exception, the slaughter of "downer" animals for human consumption (DATCP is already enforcing this federal prohibition).

#### Listeria Control Plans

Under federal regulations, meat establishments producing "ready-to-eat" meat products (such as bologna and frankfurters) must have written operating plans to minimize potential consumer health risks from *Listeria monocytogenes*. DATCP has already implemented this federal requirement in state-inspected meat establishments. This rule incorporates the federal regulations by reference.

#### Water Retained in Meat Products

Federal regulations prohibit retained water from post-evisceration processing in raw meat and poultry, except to the extent that the retained water is an unavoidable consequence of processing to meet food safety requirements. The product label must disclose the presence of any water in excess of naturally occurring water. This rule incorporates the federal regulations by reference.

***Meat Brokers and Distributors; Records***

Under current DATCP rules, meat brokers and meat distributors must register annually with DATCP unless they are licensed as meat establishments. Under this rule, meat brokers and meat distributors must keep all of the following records related to meat transactions in which they are involved as buyers, sellers or brokers:

- The name and address of the seller.
- The name and address of the buyer.
- The date and location of sale.
- The types of products sold.
- The amount of product of each type sold.
- The disposition of any meat products received by the meat broker or meat distributor.

**Comparison with federal regulations**

DATCP currently enforces federal commercial feed regulations under contract with FDA. Federal regulations include prohibitions designed to prevent BSE (“mad cow disease”). This rule is consistent with current federal regulations and does not change current federal regulations.

Federal law requires federal or state inspection of all meat establishments. State meat inspection must be at least “equal to” federal inspection. USDA administers the federal meat inspection program, and DATCP administers Wisconsin’s state inspection program. This rule revises state meat inspection rules to keep them at least “equal to” federal regulations.

**Comparison with adjacent states**

All of the surrounding states (Michigan, Minnesota, Illinois and Iowa) regulate inedible animal by-products, including licensing and fees, processing and handling, facility standards, sanitation, labeling and enforcement. However, the surrounding states may use different terminology in their regulations.

All of the surrounding states require vehicle permits and identification of vehicles used to haul inedible carcasses and carcass materials. Surrounding states all require similar labeling of inedible carcasses, carcass materials and products. Surrounding states enforce FDA feed regulations, including prohibitions against the feeding of mammalian protein material to cattle or other ruminants. However, not all states have incorporated federal regulations by rule (incorporation facilitates enforcement under state law).

**Data and analytical methodologies**

See above. DATCP has analyzed current rules in light of actual program experience and industry practice. This rule is designed to clarify current rules, make current rules consistent with relevant federal rules, and make current rules internally consistent. DATCP has not conducted a formal scientific data analysis, because it is not necessary or relevant to this rulemaking proceeding.

DATCP conducts or monitors disease testing and surveillance as part of normal program administration, and evaluates programs in light of relevant disease findings and test results. Among other things, Wisconsin has tested over 100,000 cattle for BSE (about 20% of all the cattle tested to date in the U.S.) without any positive disease findings.

**Fiscal Impact**

This rule will have no significant fiscal impact on DATCP or local government units.

**Business Impact**

For the most part, this rule merely clarifies current rules without making significant substantive changes. Among other things, this rule clarifies the coverage of current licenses related to renderers, animal food processors, grease processors, commercial feed manufacturers and dead animal collectors.

This rule will not have any significant adverse impact on business (including small business). This rule clarifies current recordkeeping requirements, but it does not add significant new recordkeeping requirements. This rule requires regulated entities to keep records for 3 years (instead of 2 years under current rules).

**Notice of Hearing****Commerce****(Construction Career Academies Grants,  
Ch. Comm 4)****CR 07-117**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1) and 101.31, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapter Comm 4 relating to grants for construction career academies and affecting small business.

**Hearing Information****Date and Time:****January 30, 2008**

10:00 a.m.

**Location:**

Conference Room 3C

Thompson Commerce Center

201 West Washington Avenue

Madison

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

**Submission of Written Comments**

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until February 8, 2008, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

**Public Hearing Comments**

The hearing record on this proposed rulemaking will remain open until February 8, 2008. Written comments on the proposed may be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

**Analysis Prepared by the Department of Commerce*****Statutes interpreted***

Section 101.31, Stats., as created by 2007 Wisconsin Act 20.

***Statutory authority***

Sections 101.02 (1) and 101.31, Stats., as created by 2007 Wisconsin Act 20.

***Related statute or rule***

None.

***Explanation of agency authority***

Under the authority of chapter 101, Stats., the Department of Commerce has oversight of various construction programs to protect public safety. Under 2007 Wisconsin Act 20, the department has been directed to administer a grant program for construction career academies.

***Summary of proposed rules***

The proposed rules establish administrative procedures for the submittal and approval of grants for construction career academies.

***Summary of, and comparison with, existing or proposed federal regulations***

An internet search on federal grants for construction career academies in the U.S. federal regulations and U.S. federal register yielded no results.

***Comparison with rules in adjacent states***

An Internet-based search of grants programs for construction career academies in the states of Illinois, Iowa, Michigan and Minnesota found that none of the states have specific rules or programs regarding these types of grants.

***Summary of factual data and analytical methodologies***

The proposed rules were developed by reviewing the provisions under s. 101.31, Stats., as created by 2007 Wisconsin Act 20, as well as existing administrative rules for grant programs administered by the Department of Commerce.

***Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report***

The proposed rules establish procedures for the issuance of grants to assist construction career academies, as instructed under s. 101.31, Stats., of 2007 Wisconsin Act 20. The enabling legislation affords certain entities the opportunity to acquire funds to further education in the various fields of construction. Based upon the conditions established under the enabling legislation, it is anticipated that construction organizations, high schools and technical colleges will be the likely applicants for the grants. These types of entities are not small businesses by definition. Therefore, the department does not believe that the proposed rules will have a direct effect on small business.

**Agency Contact**

James Quast, Program Manager,  
jim.quast@wisconsin.gov, (608) 266-9292

**Copy of Rules**

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at [www.commerce.wi.gov/SB/](http://www.commerce.wi.gov/SB/). Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email

at [roberta.ward@wisconsin.gov](mailto:roberta.ward@wisconsin.gov), or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

**Environmental Analysis**

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

**Initial Regulatory Flexibility Analysis*****Types of small businesses that will be affected by the rules.***

The proposed rules establish procedures for the issuance of grants to assist construction career academies, as instructed under s. 101.31, Stats., of 2007 Wisconsin Act 20. Based upon the conditions established under the legislation, it is anticipated that construction organizations, high schools and technical colleges will be the likely groups applying for the grants.

***Reporting, bookkeeping and other procedures required for compliance with the rules.***

Successful applicants will be required to enter into contract with the department. The successful applicants will also be required to submit periodic documentation demonstrating compliance with the conditions of the grant and the contract.

***Types of professional skills necessary for compliance with the rules.***

It is anticipated that no additional or new professional skills are necessary in order to comply with the rules.

***Will the rules have a significant economic impact on small businesses?***

No.

***Small business regulatory coordinator***

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at [carol.dunn@wisconsin.gov](mailto:carol.dunn@wisconsin.gov).

**Fiscal Impact**

The proposed rules under chapter Comm 4 establish the procedures for implementing the grant program for construction career academies as established under 2007 Wisconsin Act 20. The funds for the grants will come from revenue generated by Safety and Buildings Division programs. The grant program is to be funded at \$250,000 from the division's FY 08 revenue.

***Long-range fiscal implications***

No long-range fiscal implications are anticipated.

**Notice of Hearing**  
**Health and Family Services**  
**(Health, Chs. HFS 110-)**

**CR 07-115**

NOTICE IS HEREBY GIVEN That the Department of Health and Family Services will hold public hearings to consider the repeal and re-creation of HFS 149, relating to the

Special Supplemental Nutrition Program for Women, Infants and Children (WIC) vendors and participants, and affecting small businesses.

### Hearing Information

Date and Time	Location
<b>January 30, 2008</b> 9:30 a.m. – noon	2202 S. Park Street (Villager Mall) Madison, WI 53713 Room 310
<b>January 31, 2008</b> 9:00 a.m. – 2:00 p.m.	640 S. 84th St., Tommy G Thompson Youth Center West Allis, WI 53214 Governor's Room
<b>February 5, 2008</b> Noon – 2:00 p.m.	1 South Oneida (Courthouse) Rhineland, WI 54501 County Board Room, 2nd floor
<b>February 6, 2008</b> 10:00 a.m. – noon	720 Second Avenue, City County Building Eau Claire, WI 54703 Room G330
<b>February 7, 2008</b> 9:00 – 11:00 a.m.	610 South Broadway Green Bay, WI 54303 2nd Floor

The hearing sites are fully accessible to people with disabilities. If you are hearing impaired, do not speak English, or have circumstances that might make communication at a hearing difficult and you, therefore, require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

### Submission of Written Comments

Written comments may be submitted at the public hearing or submitted to the contact person listed below. Comments may also be made using the Wisconsin Administrative Rule Website at <http://adminrules.wisconsin.gov>. The deadline for submitting comments at the website and the contact person is 4:30 p.m., on February 14, 2008.

### Analysis Prepared by the Department of Health and Family Services

#### *Statutes interpreted*

Sections 46.016 and 253.06, Stats.

#### *Statutory authority*

Sections 46.016, 253.06 and 227.11 (2) (a), Stats.

#### *Explanation of agency authority*

Section 253.06, Stats., is specific to WIC and requires the Department to promulgate rules to establish the following: minimum qualification standards for the authorization of vendors in the WIC Program, the awarding of a contract to a vendor; and minimum requirements for participants, including prohibited practices.

#### *Plain language analysis*

Under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the federal government provides supplemental foods and nutrition education through payment of cash grants to states that administer the program through local agencies at no cost to eligible persons. The WIC

Program serves as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems. In Wisconsin, the WIC Program has 119,000 plus certified participants, comprised of low-income pregnant and breastfeeding women, infants and children under 5 years of age. Seventy local WIC projects (located in city and county public health departments, tribal agencies, private non-profit organizations, and one hospital) administer WIC in designated project service areas. These services include health screening, nutrition assessment and counseling, referrals to other health and social services, and WIC checks to purchase approved nutritious foods at authorized grocery stores and pharmacies (vendors).

The Wisconsin WIC Program is responsible for the authorization of some 1,000 vendors to provide food and infant formula to WIC participants. Applications are screened for basic store and management information, business integrity, and the selection of authorized WIC foods at competitive prices as determined by prices charged by all stores in the same peer group.

The proposed order repeals and recreates ch. HFS 149, the Department's rules for authorizing and monitoring vendors participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), established under 42 USC 1786. The WIC Program in Wisconsin is administered by the Department and local agencies that contract with the Department to provide services such as eligibility determination, nutrition counseling, and food benefit issuance for participants. The existing administrative rules are being repealed and recreated to reflect changes in Wisconsin statutes and federal regulations. The Department proposes to make the following changes to ch. HFS 149:

- Add and revise definitions.
- Increase the standards for eligibility for consideration by the Department as a WIC vendor, including:
  1. The vendor demonstrates business integrity.
  2. The vendor has an acceptable history with WIC and the Food Stamp Program.
  3. The vendor is not delinquent in payment of taxes.
  4. The vendor is not an above-50-percent vendor.
  5. The vendor purchases WIC infant formula only from a supplier listed on the authorized infant formula list.
  6. The vendor has regular, established hours of operation.
- Eliminate specifics about what is on an application for vendor authorization.
- Remove requirement to return incomplete applications to vendors; the state WIC office will work with vendors to complete the application information.
- Clarify vendor responsibilities related to change of ownership. A site visit is required by federal regulation for all initial authorizations, including changes of ownership. The visit can, however, be conducted prior to the legal change, if the vendor will make appropriate assurances that the vendor is accountable for the same information after the sale takes place.
- Consider a store moving within a five mile radius of the closing store a change of location and not a store closing, thus not requiring a new application for authorization.
- Clarify a vendor is required to meet eligibility requirements throughout the vendor's authorization period. If something changes, and the vendor no longer meets the requirements that allowed the vendor to be eligible, the vendor could be disqualified.

- Require vendors to maintain inventory and accounting records for the length of time specified in the agreement and the vendor would make these available as requested.
- Create standards for the use of the WIC logo and acronym.
- Eliminate Class A, B and C designation for vendor violations.
- Incorporate federally mandated sanctions for disqualification of vendors.
- Create discretionary (vs mandatory) sanctions for violations that states can identify.
- Allow forfeitures and corrective plans for some violations by vendors.
- Require civil money penalties in lieu of disqualification if the Department determines that participant access to WIC services is inadequate in the area served by the vendor.
- Allow recoupments and enforcement assessments against vendors.
- Incorporate required sanctions for second, third and subsequent violations by vendors.
- Incorporate Food Stamp Program reciprocal disqualifications for vendors.
- Bar voluntary withdrawal or non-renewal of agreement as an alternative to disqualification of a vendor.
- Specify when a full or abbreviated administrative review may be requested, and those situations where review may not be requested. Allow the Department to summarily suspend a vendor if determined that the violation is a public health emergency.
- Add a new subchapter related to WIC participants and proxies.
- Incorporate mandatory sanctions (1 year disqualification) for participation by a participant in more than one WIC project or clinic at the same time, and the fraudulent receipt of more than \$100 in WIC benefits.
- Include mandatory repayment for all benefits received fraudulently by a participant.
- Specify sanctions for 1, 3 and 6 month state-identified violations by a WIC participant or proxy.
- Specify that disqualification applies to the participant, proxy and all of the participant's family members unless the local project determines that a serious health risk would result.

#### ***Summary of, and comparison with, existing or proposed federal regulations***

The Department operates the WIC Program under a State Plan pursuant to 7 CFR 246.4. The State Plan is a plan of program operation and administration that describes the manner in which the Department implements and operates all aspects of the WIC Program in Wisconsin. The State Plan addresses vendor management including selection and authorization, training and monitoring, compliance investigations, and vendor sanctions that are related to this rule. The State Plan also addresses participant certification and eligibility including dual participation, participant rights and responsibilities, fair hearing procedures, and a sanction system that are related to this rule.

#### ***Comparison with rules in adjacent states***

**Iowa:** Iowa Administrative Code 641 IAC 73.19 (135) and 641 IAC 73.8 (135) were revised effective 2006 to incorporate the P.L. 108-265 Child Nutrition and WIC Reauthorization Act of 2004 and subsequent policy and federal regulation revisions. They include the federal requirements related to vendor authorization, responsibilities of vendors, vendor

monitoring, participant violations, vendor violations, reciprocal food stamp disqualifications, civil money penalties in lieu of vendor disqualification, approved purchases of infant formula, and elimination of "above 50%" stores. In addition to the violations and sanctions required by regulation, Iowa includes additional requirements for authorization, including a variety of groceries (likely the requirements to be a food stamp authorized store), limited sales from gasoline, alcoholic or tobacco products, regular store hours, and a requirement to order special infant formulas within 48 or 72 hours. The IAC utilizes a point system for assigning sanctions for various violations by vendors and participants.

**Minnesota:** Minnesota Rule Chapter 4617 was revised in April 2005 and addressed local agencies (not participants), vendors, appeals by vendors and local agencies and vendor applicants, and WIC approved foods. Ch. 4617 also incorporates the P.L. 108-265 and subsequent policy and rule requirements for vendor authorization, responsibilities of vendors, vendor monitoring, vendor violations, reciprocal food stamp disqualifications, civil money penalties in lieu of vendor disqualification, approved purchases of infant formula, and elimination of "above 50%" stores. Added requirement to be authorized to accept food stamps, requires cash registers that generate a receipt and provide a receipt to the participant, regular store hours. Ch. 4617 increased the sanctions for discretionary violations by lengthening the period of disqualification and changing the number of incidents from 3 to 2 before sanctioning, and defines inadequate participant access. Minnesota WIC does not appear to have Rule for participant fraud and abuse; instead it is addressed through program policy and guidance from the state WIC office on a case by case basis.

**Illinois:** 77 Illinois Administrative Code Ch. X, Part 672, subchapter i was revised effective September 2006 and includes the same federal requirements as stated in Minnesota and Iowa. Additional state requirements include less than 70% gross receipts from the sale of non-alcoholic products; specifies that neither the vendor applicant, vendor, nor any owner of 30% or more ownership shall have been terminated or disqualified from the WIC Program in the previous 3 years. Part 672 has sections on state major violations and sanctions, and state minor violations and sanctions. Illinois does not appear to have Administrative Code for participant fraud and abuse.

**Michigan:** The Michigan WIC Program does not have administrative rules for WIC; all vendor and participant requirements are either in the vendor contract or in State WIC Program policy.

#### ***Summary of factual data and analytical methodologies***

1. The 1997 Economic Census – Wisconsin Geographic Series, which is compiled by the U.S. census bureau every 5 years for each year ending in "2" and "7" and is the latest available economic data compiled on businesses located in Wisconsin.

2. Criteria adopted by the Department and approved by the Wisconsin Small Business Regulatory Review Board to determine whether the Department's proposed rules have a significant economic impact on a substantial number of small businesses. Pursuant to the Department's criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year's consumer price index or reduces revenues by more than the prior year's

consumer price index. For the purposes of this rulemaking, 2006 is the index year. The consumer price index is compiled by the U.S. Department of Labor, Bureau of Labor Statistics and for 2006 is 3.2%.

3. The Department's WIC vendor and vendor redemption records. Each vendor is placed in a vendor peer group according to the number of cash registers, a valid indicator for the size of store. Small stores are those with 4 or less registers and would be considered a small store.

4. The Wisconsin WIC Program Advisory Committee's Retailer Sub-committee that includes the Wisconsin Grocers Association and retailers representing large and small grocery stores and pharmacies, reviewed and commented on the draft rule.

### Initial Regulatory Flexibility Analysis

The Wisconsin WIC Program assigns each vendor (grocery store and pharmacy) to a vendor peer group based on the number of cash registers, a criteria that has been validated as an accurate indicator of the store size. As of July 2007, peer group 1 consisted of 433 grocery stores with 1-4 cash registers, i.e., a small store. The total redemption of the 433 grocery stores in Peer Group 1 for the month of July 2007 was \$1,567,237, compared to \$1,409,331 for the 222 grocery stores in Peer Group 2 (5-10 registers), and \$3,465,249 for the 232 grocery stores in Peer Group 3 (11 or more registers).

All 165 WIC pharmacies are placed in Peer Group 9, regardless of the number of registers, with a July 2007 total redemption of \$224,150.

All 9 above-50-percent vendors are placed in Peer Group 7. An above-50-percent vendor is an authorized vendor who derives more than 50 percent of annual food sales revenue from WIC checks or a vendor applicant for initial authorization who estimate they will derive more than 50 percent of annual food sales revenue from WIC checks. There are 6 small stores and 1 pharmacy in the above-50-percent Peer Group. Total redemption for July 2007 was \$108,450.

The proposed rules will affect small businesses, however, the proposed rules will not have a significant economic impact on the small businesses that are compliant with this rule. Small stores that do not currently maintain regular established hours of operation may have to increase the time open to at least five days a week for a minimum of two four-hour blocks of time. This requirement may result in an increase in sales that would offset any increase in costs. The rules codify vendor contract requirements for stores and pharmacies to maintain inventory and accounting records as required under the vendor contract, and to report store prices to the Department. These are not new requirements. No professional skills are required to comply with the rules.

The WIC Program is entirely federally funded. No state funding is used for administrative expenses or for food purchases. It is not anticipated that federal food expenditures will be increased as a result of this rule; in fact, food expenditures should be less when the rule is in place. There would be tighter pricing requirements for above-50-percent vendors, and stronger sanctions for fraud and abuse, including recoupments as a result of overcharging for WIC foods.

### Small business regulatory coordinator

Rosie Greer, Greerj@dhfs.state.wi.us, 608-266-1279

### Fiscal Impact

The WIC program is entirely federally funded. No state funding is used for administrative expenses or for food purchases. It is not anticipated that federal food expenditures will be increased as a result of this rule; in fact, food expenditures should be less when the rule is in place. There would be tighter pricing requirements for above-50-percent vendors and stronger sanctions for fraud and abuse, including recoupment of overcharging for WIC foods.

There would be an indeterminate state fiscal impact as a result of the expansion of sanctions, but it is anticipated that WIC would increase its existing administration revenues as a result of imposing an enforcement assessment with each recoupment.

There will be no local government impact as a result of this rule. All of the provisions related to vendor sanctions are conducted by the state WIC office and monitoring requirements for the local projects have not changed. Provisions related to participant fraud and abuse are either unchanged from previous policy or lessened; for example, follow-up for participant repayment is now limited to two letters, with additional follow-up to be conducted by the state WIC office if needed.

### Copy of Rule

A copy of the full text of the rules and the fiscal estimate can be obtained at no charge from the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> or by contacting the person listed below.

### Contact Person

Patti Herrick  
WIC Program Director  
Room 243, 1 West Wilson Street  
Madison, WI 53701  
Phone: 608-266-3821  
Fax: 608-266-3125  
herriph@dhfs.state.wi.us

## Notice of Hearing Transportation CR 07-114

NOTICE IS HEREBY GIVEN that pursuant to ss. 110.06, 110.20 (9), and 227.11, Stats., interpreting s. 110.20, Stats., the Department of Transportation will hold a public hearing on **February 4, 2008** at the Hill Farms State Transportation Building, **Room 144-B**, 4802 Sheboygan Avenue, Madison, WI, at **1:00 PM**, to consider the amendment of ch. Trans 131, Wisconsin Administrative Code, relating to the vehicle emission inspection program.

Parking for persons with disabilities and an accessible entrance are available.

### Copy of Rule

A copy of the proposed rule may be obtained upon request from Steve Hirshfeld, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909. You may also contact Steve Hirshfeld by phone at (608) 266-2267 or via e-mail: [stephen.hirshfeld@dot.state.wi.us](mailto:stephen.hirshfeld@dot.state.wi.us).

## Analysis Prepared by the Department of Transportation

### Statutes interpreted

s. 110.20, Stats.

### Statutory authority

ss. 110.06, 110.20 (9), and 227.11, Stats.

### Explanation of agency authority

The Wisconsin Department of Transportation (WisDOT) is required to provide an emissions inspections program nonexempt vehicles customarily kept in a number of counties in Wisconsin. WisDOT is required to promulgate rules specifying procedures for inspection of vehicles, including the method of measuring emissions and the types of equipment which may be used in such measurement. The procedures and methods used must be capable of being correlated with procedures established under federal law.

### Related statutes or rules

Section 110.20, Stats., Ch. Trans 131, Wis. Adm. Code.

### Plain language analysis

This rule amendment conforms ch. Trans 131 to statutory changes in the vehicle inspection and maintenance program, enacted in 2007 Wis. Act 20. The program is changed to:

- Eliminate emission inspection of vehicles model year 1995 and earlier (previously, vehicles model year 1968 and newer required testing).
- Add emission inspection of vehicles model year 2007 and later up to 14,000 lbs. gross vehicle weight rating while limiting vehicles model year 2006 and earlier to 8,500 lbs gross vehicle weight rating (previously, all vehicles up to 10,000 lbs had required testing).
- Add emission inspection of vehicles model year 2007 and later that are powered by diesel fuel.
- Allow the Department to establish methods for emission testing, and delivery of testing services in addition to the previously established method of a single contractor under contract to the Department.

In this proposed rule, the Department establishes as the testing method the second-generation on-board diagnostic test (OBD II), and establishes as the service delivery method a possibility of multiple contractors who perform the test at their own facilities, or by subcontracted testing at subcontractors' facilities, or at self-service facilities where a vehicle owner may test the vehicle; and transmission of test results and repair information to the Department electronically in a format specified by the Department.

This proposed rule eliminates the previously-established idle and transient tailpipe testing methods, and the emission equipment inspection, leaving only the OBD II method. This amendment repeals references in the rule related to these now eliminated testing methods.

In addition, this proposed rule eliminates the evaporative emission test ("gas cap test"), which was previously required but is no longer necessary with OBD II technology.

The proposed rule clarifies that to obtain a waiver of compliance on the basis of statutory repair cost limit, the vehicle must pass a waiver emission equipment inspection.

Under law, emission testing is required based on where a vehicle is customarily kept, as stated by the vehicle owner or lessee. This proposed rule makes clear that the Department may determine whether a vehicle domicile as stated is consistent with the vehicle owner or lessee address or other information. The purpose is to deter statement that the vehicle is not customarily kept in the emission area in order to avoid the emission test requirement.

### Summary of, and comparison with, existing or proposed federal regulations

The vehicle emission inspection and maintenance program exists to comply with federal law and regulations under the Clean Air Act and amendments. The Wisconsin Department of Natural Resources (DNR) has established the inspection and maintenance program as one of several measures to reduce air pollution. DNR has received approval from the federal Environmental Protection Agency (USEPA) for all Wisconsin's air pollution reduction measures. The program change enacted in 2007 Wisconsin Act 20 and in this rule amendment has been approved by USEPA, and this proposed rule conforms to federal regulations.

### Comparison with rules in adjacent states

**Michigan:** Michigan has no vehicle inspection and maintenance program, and consequently no rules addressing such.

**Minnesota:** Minnesota has no vehicle inspection and maintenance program, and consequently no rules addressing such. State rules prohibit motorists from:

- Permitting vehicles to emit visible air contaminants for more than 10 consecutive seconds (non-diesel cycle engines) or more than 20 consecutive seconds (diesel cycle engines), and
- Removing, altering, or otherwise rendering inoperative any vehicle air pollution control system.

**Illinois:** Emissions testing is prescribed under the Illinois Vehicle Emissions Inspection Law [625 Illinois Compiled Statutes 5/13C (2005)]. The Inspection Law requires biennial inspection of 1996 and newer model year light-duty vehicles, light-duty trucks, and heavy-duty vehicles. Diesel-powered vehicles, motorcycles and other specified vehicle/registration types are exempt from inspection. Vehicles do not require inspection until they are four model years old.

Per the Inspection Law, the emissions test(s) to be performed on each vehicle consists of one of the following alternatives:

1. On-board diagnostics test.
2. Idle exhaust and gas cap pressure test.

The former applies to all OBD II-equipped vehicles; the latter to remaining testable vehicles.

**Iowa:** Iowa has no vehicle inspection and maintenance program, and consequently no rules addressing such.

### Summary of factual data and analytical methodologies

The program change enacted in 2007 Wis. Act 20 and in this proposed rule results from a joint study by the Wisconsin DNR and DOT. The agencies studied the age of the Wisconsin vehicle fleet, the existence and efficacy of OBD II technology on vehicles, and the costs and benefits of various methods of emission testing. The agencies concluded that sufficient numbers of newer model year vehicles, equipped with OBD II technology, now exist in the vehicle fleet that it is cost-effective to eliminate testing of older vehicles and eliminate tailpipe testing, and the overall air pollution reduction level is maintained.

### Analysis and supporting documentation used to determine effect on small businesses

In establishing the new emission program design, DOT and DNR studied the age of the Wisconsin vehicle fleet. The agencies have determined that most vehicles in the fleet are within the 1996-current model year range, and that older vehicles have largely been removed from the fleet. The likelihood is that small businesses own newer vehicles, equipped with OBD II technology. As a result, while more

vehicles are made subject to emission testing under the new law, the cost per vehicle to comply should be reduced. To the extent that small businesses still own older vehicles, those vehicles are no longer subject to testing and repair.

**Effect on small business**

Section 285.30, Stats., as amended by 2007 Wis. Act 20, eliminates the testing requirement for vehicles model year before 1996. To the extent that small businesses own older vehicles, the law eliminates the need for those vehicles to be tested. The law also requires diesel-powered vehicles of model year 2007 and newer, and vehicles model year 2007 and newer up to 14,000 lbs gross vehicle weight rating to undergo OBD II emission testing. On the other hand, these vehicles are manufactured with OBD II equipment and software, and maintaining the vehicles' emission systems is a reasonable expectation, and thus not unduly burdensome. The statute provides for enforcement of emission testing through vehicle registration denial. The Department's Regulatory Review Coordinator may be contacted by e-mail at [ralph.sanders@dot.state.wi.us](mailto:ralph.sanders@dot.state.wi.us), or by calling (414) 438-4585.

**Fiscal effect**

Section 285.30, Stats., as amended by 2007 Wis. Act 20, eliminates the testing requirement for vehicles model year before 1996. To the extent that local governments own older vehicles, the law eliminates the need for those vehicles to be tested and repaired. The law also requires diesel-powered vehicles of model year 2007 and newer, and vehicles model year 2007 and newer up to 14,000 lbs gross vehicle weight rating to undergo OBD II emission testing. On the other hand, these vehicles are manufactured with OBD II equipment and software, and maintaining the vehicles' emission systems is a reasonable expectation, and thus not unduly burdensome.

The statute provides for enforcement of emission testing through vehicle registration denial.

**Anticipated costs incurred by private sector**

Section 285.30, Stats., as amended by 2007 Wis. Act 20, eliminates the testing requirement for vehicles model year before 1996. To the extent that state or private sector entities own older vehicles, the law eliminates the need for those vehicles to be tested and repaired. The law also requires diesel-powered vehicles of model year 2007 and newer, and vehicles model year 2007 and newer up to 14,000 lbs gross vehicle weight rating to undergo OBD II emission testing. On the other hand, these vehicles are manufactured with OBD II equipment and software, and maintaining the vehicles' emission systems is a reasonable expectation, and thus not unduly burdensome. The statute provides for enforcement of emission testing through vehicle registration denial.

**Agency contact person and place where comments are to be submitted and deadline for submission**

The public record on this proposed rule making will be held open until close of business the day of the hearing, 2007, to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Steve Hirshfeld, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909. You may also contact Steve Hirshfeld by phone at (608) 266-2267 or via e-mail: [stephen.hirshfeld@dot.state.wi.us](mailto:stephen.hirshfeld@dot.state.wi.us).

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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## Submittal of Proposed Rules to the Legislature

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*Please check the Bulletin of Proceedings – Administrative Rules for further information on a particular rule.*

### **Agriculture, Trade and Consumer Protection**

#### **CR 07-037**

Chs. ATCP 60, 69, 70, 71, 75, 77, 80, 81, 82, and 85, relating to food and dairy fees.

### **Employee Trust Funds**

#### **CR 07-068**

Ch. ETF 20, relating to the status of a non-annuitant Wisconsin Retirement System participant at death, for purposes of determining the applicable death benefit.

### **Commissioner of Insurance**

#### **CR 07-096**

Chs. Ins 6, 26, and 28, relating to creating a limited line of authority for travel insurance, exempting an applicant for a managing general agent's license from examination, and clarifying the procedure for applying for a resident intermediary agent license.

### **Workforce Development**

#### **CR 07-054**

Ch. DWD 128, relating to the unemployment insurance rules for determining a claimant's ability and availability for work.

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## Rule Orders Filed with the Revisor of Statutes Bureau

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*The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at [bruce.hoesly@legis.wisconsin.gov](mailto:bruce.hoesly@legis.wisconsin.gov) or (608) 266-7590 for updated information on the effective dates for the listed rule orders.*

### **Cemetery Board**

#### **CR 07-050**

An order affecting chs. RL 50 and 51, and creating chs. CB 1 and 2, relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers.

Effective 3-1-08.

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